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GENERAL ASSEMBLY

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A/CONF.152/1
13 March 1990

ORIGINAL: ENGLISH

UNITED NATIONS CONFERENCE
ON THE LIABILITY OF OPERATORS
OF TRANSPORT TERMINALS IN
INTERNATIONAL TRADE
Vienna, 2-19 April 1991

EXCERPTS FROM GENERAL ASSEMBLY RESOLUTION 44/33 OF 4 DECEMBER 1989 RELEVANT TO THE UNITED NATIONS CONFERENCE ON THE LIABILITY OF OPERATORS OF TRANSPORT TERMINALS IN INTERNATIONAL TRADE

44/33. Report of the United Nations Commission on International Trade Law on the work of its twenty-second session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade, as well as its resolution 43/166 of 9 December 1988,

Reaffirming its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would significantly contribute to universal economic co-operation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Having considered the report of the United Nations Commission on International Trade Law on the work of its twenty-second session, 1/

1/ Official Records of the General Assembly, Forty-fourth Session, Supplement No. 17 (A/44/17).

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Noting that the Commission adopted a draft convention on the liability of operators of transport terminals in international trade 2/ and recommended in the decision in paragraph 225 of its report that the General Assembly should convene an international conference of plenipotentiaries for a duration of three weeks in 1991 to conclude, on the basis of the draft convention, a convention on the liability of operators of transport terminals in international trade,

. . .

4. Expresses its appreciation to the Commission for the valuable work done in preparing a draft convention on the liability of operators of transport terminals in international trade;

5. Decides that an international conference of plenipotentiaries shall be convened at Vienna from 2 to 19 April 1991 to consider the draft convention prepared by the Commission and to embody the results of its work in a convention on the liability of operators of transport terminals in international trade;

6. Requests the Secretary-General:

(a) To invite all States to participate in the conference;

(b) To invite representatives of organizations that have received a standing invitation from the General Assembly to participate in the sessions and the work of all international conferences convened under its auspices in the capacity of observers to participate in the conference in that capacity, in accordance with Assembly resolutions 3237 (XXIX) of 22 November 1974 and 31/152 of 20 December 1976;

(c) To invite representatives of the national liberation movements recognized by the Organization of African Unity in its region to participate in the conference in the capacity of observers in accordance with General Assembly resolution 3280 (XXIX) of 10 December 1974;

(d) To invite the specialized agencies and the International Atomic Energy Agency, as well as interested organs of the United Nations and interested international organizations, to be represented at the conference by observers;

. . .

2/ Ibid., annex I.

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UNITED NATIONS CONFERENCE
ON THE LIABILITY OF OPERATORS
OF TRANSPORT TERMINALS IN
INTERNATIONAL TRADE
Vienna, 2-19 April 1991

PROVISIONAL AGENDA

1. Opening of the Conference.

2. Election of the President.

3. Adoption of the agenda.

4. Adoption of the rules of procedure.

5. Election of Vice-Presidents of the Conference and of a chairman of each of the main committees.

6. Credentials of representatives to the Conference:

   (a) Appointment of the Credentials Committee;

   (b) Report of the Credentials Committee.

7. Appointment of members of the Drafting Committee.

8. Organization of work.

9. Consideration of the question of the liability of operators of transport terminals in international trade in accordance with General Assembly resolution 44/33 of 4 December 1989.

10. Adoption of a convention and other instruments deemed appropriate, and of the Final Act of the Conference.

11. Signature of the Final Act, of the Convention and of other instruments.

12. Closure of the Conference.

READEX

UNITED NATIONS

GENERAL ASSEMBLY

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31 August 1990

ORIGINAL: ENGLISH

UNITED NATIONS CONFERENCE
ON THE LIABILITY OF OPERATORS
OF TRANSPORT TERMINALS
IN INTERNATIONAL TRADE
Vienna, 2-19 April 1991

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I. REPRESENTATION AND CREDENTIALS

Composition of delegations

Rule 1

The delegation of each State participating in the Conference shall consist of a head of delegation and such other representatives, alternate representatives and advisers as may be required.

Alternates and advisers

Rule 2

The head of delegation may designate an alternate representative or an adviser to act as a representative.

Credentials

Rule 3

The credentials of heads of delegations and the names of representatives, alternate representatives and advisers shall be submitted to the Executive Secretary of the Conference if possible not later than 24 hours after the opening of the Conference, and may be submitted to the Executive Secretary prior to the opening of the Conference. Any subsequent change in the composition of delegations shall also be submitted to the Executive Secretary. The credentials shall be issued either by the Head of State or Government or by the Minister for Foreign Affairs.

Credentials Committee

Rule 4

A Credentials Committee of nine members shall be appointed at the beginning of the Conference. Its composition shall be based on that of the Credentials Committee of the General Assembly of the United Nations at its forty-fifth session. It shall examine the credentials of delegations and report to the Conference without delay.

Provisional participation in the Conference

Rule 5

Pending a decision of the Conference upon their credentials, heads of delegations shall be entitled to participate provisionally in the Conference.

II. OFFICERS

Elections

Rule 6

The Conference shall elect from among the heads of delegations or representatives of participating States the following officers: a President

and twenty-two Vice-Presidents, a Chairman for each of the main committees provided for in rule 46 and the Chairman of the Drafting Committee provided for in rule 47. These officers shall be elected on the basis of ensuring the representative character of the General Committee. The Conference may also elect such other officers as it deems necessary for the performance of its functions.

General powers of the President

Rule 7

1. In addition to exercising the powers conferred upon him or her elsewhere by these rules, the President shall preside at the plenary meetings of the Conference, declare the opening and closing of each meeting, direct the discussion, ensure observance of these rules, accord the right to speak, promote general agreement, inform the General Committee on efforts to reach general agreement, put questions to the vote and announce decisions. The President shall rule on points of order and, subject to these rules, shall have complete control of the proceedings and over the maintenance of order thereat. The President may propose to the Conference the closure of the list of speakers, a limitation on the time to be allowed to speakers and on the number of times each representative may speak on a question, the adjournment or the closure of the debate and the suspension or the adjournment of a meeting.

2. The President, in the exercise of his or her functions, remains under the authority of the Conference.

Acting President

Rule 8

1. If the President finds it necessary to be absent from a meeting or any part thereof, he or she shall designate a Vice-President to take his or her place.

2. A Vice-President acting as President shall have the powers and duties of the President.

Replacement of the President

Rule 9

If the President is unable to perform his or her functions, a new President shall be elected.

The President shall not vote

Rule 10

The President, or a Vice-President acting as President, shall not vote in the Conference, but shall designate another member of his or her delegation to vote in his or her place.

III. GENERAL COMMITTEE

Composition

Rule 11

There shall be a General Committee consisting of 26 members, which shall comprise the President and Vice-Presidents of the Conference, the Chairmen of the main committees and the Chairman of the Drafting Committee. The President of the Conference or, in his or her absence, one of the Vice-Presidents designated by him or her shall serve as Chairman of the General Committee.

Substitute members

Rule 12

If the President or a Vice-President of the Conference is to be absent during a meeting of the General Committee, he or she may designate a member of his or her delegation to sit and vote in the Committee. In case of absence, the Chairman of a main committee shall designate the Vice-Chairman of that Committee as his or her substitute, and the Chairman of the Drafting Committee shall designate a member of the Drafting Committee. When serving on the General Committee, the Vice-Chairman of a main committee or member of the Drafting Committee shall not have the right to vote if he or she is of the same delegation as another member of the General Committee.

Functions

Rule 13

The General Committee shall assist the President in the general conduct of the business of the Conference and, subject to the decisions of the Conference, shall ensure the co-ordination of its work.

IV. SECRETARIAT

Duties of the Secretary-General

Rule 14

1. The Secretary-General of the United Nations shall be the Secretary-General of the Conference. He, or his representative, shall act in that capacity in all meetings of the Conference and its committees.

2. The Secretary-General shall appoint an Executive Secretary of the Conference and shall provide and direct the staff required by the Conference and its committees.

Duties of the secretariat

Rule 15

The secretariat of the Conference shall, in accordance with these rules:

(a) Interpret speeches made at meetings;

(b) Receive, translate, reproduce and distribute the documents of the Conference;

(c) Publish and circulate the official documents of the Conference;

(d) Prepare and circulate records of public meetings;

(e) Make and arrange for the keeping of sound recordings of meetings;

(f) Arrange for the custody and preservation of the documents of the Conference in the archives of the United Nations; and

(g) Generally perform all other work that the Conference may require.

Statements by the secretariat

Rule 16

In the exercise of the duties referred to in rules 14 and 15, the Secretary-General or any other member of the staff designated for that purpose may, at any time, make either oral or written statements concerning any question under consideration.

V. OPENING OF THE CONFERENCE

Temporary President

Rule 17

The Secretary-General of the United Nations or, in his absence, his representative shall open the first meeting of the Conference and preside until the Conference has elected its President.

Decisions concerning organization

Rule 18

The Conference shall, to the extent possible, at its first meeting: (a) adopt its rules of procedure; (b) elect its officers and constitute its subsidiary organs; (c) adopt its agenda, the draft of which shall, until such adoption, be the provisional agenda of the Conference; (d) decide on the organization of its work.

VI. CONDUCT OF BUSINESS

Quorum

Rule 19

The President may declare a meeting open and permit the debate to proceed when representatives of at least one third of the States participating in the Conference are present. The presence of representatives of a majority of the States so participating shall be required for any decision to be taken.

Speeches

Rule 20

1. No one may address the Conference without having previously obtained the permission of the President. Subject to rules 21, 22, 24, 25 and 27, the President shall call upon speakers in the order in which they signify their desire to speak. The Secretariat shall be in charge of drawing up a list of such speakers. The President may call a speaker to order if his or her remarks are not relevant to the subject under discussion.

2. The Conference may limit the time allowed to each speaker and the number of times each representative may speak on a question. Before a decision is taken, two representatives may speak in favour of, and two against, a proposal to set such limits. When the debate is limited and a speaker exceeds the allotted time, the President shall call him or her to order without delay.

Precedence

Rule 21

The chairman or rapporteur of a committee, or the representative of a sub-committee or working group, may be accorded precedence for the purpose of explaining the conclusions arrived at by his or her committee, sub-committee or working group.

Points of order

Rule 22

During the discussion of any matter, a representative may at any time raise a point of order, which shall be decided immediately by the President in accordance with these rules. A representative may appeal against the ruling of the President. The appeal shall be put to the vote immediately, and the President's ruling shall stand unless overruled by a majority of the representatives present and voting. A representative may not, in raising a point of order, speak on the substance of the matter under discussion.

Closing of list of speakers

Rule 23

During the course of a debate the President may announce the list of speakers and, with the consent of the Conference, declare the list closed.

Right of reply

Rule 24

1. Notwithstanding rule 23, the President shall accord the right of reply to a representative of any State participating in the Conference who requests it. Any other representative may be granted the opportunity to make a reply.

2. Replies made pursuant to the present rule shall be made at the end of the last meeting of the day, or at the conclusion of the consideration of the relevant issue if that is sooner.

3. The number of interventions in reply for any delegation at a given meeting should be limited to two per issue.

4. The first intervention in reply, for any delegation on any issue at a given meeting, shall be limited to five minutes and the second intervention shall be limited to three minutes.

Adjournment of debate

Rule 25

Subject to rule 38, a representative may at any time move the adjournment of the debate on the question under discussion. In addition to the proposer of the motion permission to speak on the motion shall be accorded only to two representatives in favour and to two opposing the adjournment, after which the motion shall, subject to rule 28, be immediately put to the vote.

Closure of debate

Rule 26

Subject to rule 38, a representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his or her wish to speak. Permission to speak on the motion shall be accorded only to two representatives opposing the closure, after which the motion shall, subject to rule 28, be immediately put to the vote.

Suspension or adjournment of the meeting

Rule 27

Subject to rule 38, a representative may at any time move the suspension or the adjournment of the meeting. No discussion on such motions shall be permitted and they shall, subject to rule 28, be immediately put to the vote.

Order of motions

Rule 28

The motions indicated below shall have precedence in the following order over all proposals or other motions before the meeting:

(a) To suspend the meeting;

(b) To adjourn the meeting;

(c) To adjourn the debate on the question under discussion;

(d) To close the debate on the question under discussion.

Basic proposal

Rule 29

The basic proposal for consideration by the Conference shall be the draft Convention on the Liability of Operators of Transport Terminals in

International Trade (Official Records of the General Assembly, Forty-fourth Session, Supplement No. 17 (A/44/17, annex I) (the draft Convention is reproduced in A/CONF.152/5). Other proposals shall be those submitted at the Conference in accordance with rule 30.

Other proposals and amendments

Rule 30

Other proposals and amendments shall normally be submitted in writing to the Executive Secretary of the Conference, who shall circulate copies to all delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Conference unless copies of it have been circulated to all delegations not later than the day preceding the meeting. The President may, however, permit the discussion and consideration of amendments, even though these amendments have not been circulated or have been circulated only the same day.

Decisions on competence

Rule 31

Subject to rule 22, any motion calling for a decision on the competence of the Conference to discuss any matter or to adopt a proposal submitted to it shall be put to the vote before the matter is discussed or a decision is taken on the proposal in question.

Withdrawal of proposals and motions

Rule 32

A proposal or a motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that it has not been amended. A proposal or a motion that has thus been withdrawn may be reintroduced by any representative.

Reconsideration of proposals

Rule 33

When a proposal has been adopted or rejected it may not be reconsidered unless the Conference, by a two-thirds majority of the representatives present and voting, so decides. Permission to speak on the motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

VII. DECISION-MAKING

Voting rights

Rule 34

Each State participating in the Conference shall have one vote.

Majority required

Rule 35

1. Decisions of the Conference on all matters of substance shall be taken by a two-thirds majority of the participating States present and voting.

2. Decisions of the Conference on all matters of procedure shall be taken by a majority of the participating States present and voting.

3. If the question arises whether a matter is one of procedure or of substance, the President of the Conference shall rule on the question. An appeal against this ruling shall be put to the vote immediately, and the President's ruling shall stand unless overruled by a majority of the participating States present and voting.

4. If a vote is equally divided, the proposal or motion shall be regarded as rejected.

Meaning of the phrase "participating States present and voting"

Rule 36

For the purpose of these rules, the phrase "participating States present and voting" means participating States present and casting an affirmative or negative vote. Participating States that abstain from voting shall be considered as not voting.

Method of voting

Rule 37

Except as provided in rule 44, the Conference shall normally vote by show of hands, except that a representative may request a roll-call, which shall then be taken in the English alphabetical order of the names of the States participating in the Conference, beginning with the State whose name is drawn by lot by the President. The name of each State shall be called in all roll-calls and its representative shall reply "yes", "no" or "abstention".

Conduct during voting

Rule 38

After the President has announced the commencement of voting, no representative shall interrupt the voting except on a point of order in connection with the process of voting.

Explanation of vote

Rule 39

Representatives may make brief statements consisting solely of explanations of vote, before the voting has commenced or after the voting has been completed. The President may limit the time to be allowed for such explanations. The representative of a State sponsoring a proposal or motion shall not speak in explanation of vote thereon, unless it has been amended.

Division of proposals

Rule 40

A representative may move that parts of a proposal be voted on separately. If a representative objects, the motion for division shall be voted upon. Permission to speak on the motion shall be accorded only to two representatives in favour and two opposing the division. If the motion is carried, those parts of the proposal that are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal have been rejected, the proposal shall be considered to have been rejected as a whole.

Amendments

Rule 41

A proposal is considered an amendment to another proposal if it merely adds to, deletes from or revises part of that proposal. Unless specified otherwise, the word "proposal" in these rules shall be considered as including amendments.

Order of voting on amendments

Rule 42

When an amendment to a proposal is moved, the amendment shall be voted on first. When two or more amendments to a proposal are moved, the Conference shall vote first on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon.

Order of voting on proposals

Rule 43

1. If two or more proposals, other than amendments, relate to the same question, they shall, unless the Conference decides otherwise, be voted on in the order in which they were submitted. The Conference may, after each vote on a proposal, decide whether to vote on the next proposal.

2. Revised proposals shall be voted on in the order in which the original proposals were submitted, unless the revision substantially departs from the original proposal. In that case the original proposal shall be considered as withdrawn and the revised proposal shall be treated as a new proposal.

3. A motion requiring that no decision be taken on a proposal shall be put to the vote before a vote is taken on the proposal in question.

Elections

Rule 44

All elections shall be held by secret ballot unless, in the absence of any objection, the Conference decides to proceed without taking a ballot when there is an agreed candidate or slate.

Rule 45

1. When one or more elective places are to be filled at one time under the same conditions, those candidates, in a number not exceeding the number of such places, obtaining in the first ballot a majority of the votes cast and the largest number of votes shall be elected.

2. If the number of candidates obtaining such a majority is less than the number of places to be filled, additional ballots shall be held to fill the remaining places.

VIII. COMMITTEES

Main committees, sub-committees and working groups

Rule 46

1. The Conference shall establish two main committees (the "First Committee" and the "Second Committee") each of which may set up sub-committees or working groups. Participation in the main committees is open to all States participating in the Conference.

2. The Conference shall determine the matters to be considered by each main committee. The General Committee, upon the request of the Chairman of a main committee, may adjust the allocation of work between the main committees.

Drafting Committee

Rule 47

1. The Conference shall establish a Drafting Committee consisting of the Chairman elected under rule 6 and 14 members appointed by the Conference on the proposal of the General Committee. The Rapporteur of each of the main committees may participate ex officio, without a vote, in the work of the Drafting Committee.

2. The Drafting Committee shall consider draft articles referred to it by a main committee. The Drafting Committee shall furthermore prepare drafts and give advice on drafting as requested by the Conference or by the main committee concerned. It shall co-ordinate and review the drafting of all texts adopted, and shall report, as appropriate, either to the Conference or to the main committee concerned.

Officers

Rule 48

1. Each main committee shall have as its officers a Chairman, a Vice-Chairman and a Rapporteur. Other subsidiary organs shall have a chairman and such other officers as may be required.

2. Except as otherwise provided in rules 6 and 11, each committee, sub-committee and working group shall elect its own officers.

Quorum

Rule 49

1. The Chairman of a main committee may declare a meeting open and permit the debate to proceed when representatives of at least one quarter of the States participating in the Conference are present. The presence of representatives of a majority of the States so participating shall be required for any decision to be taken.

2. A majority of the representatives of any other committee, sub-committee or working group shall constitute a quorum.

Other committees

Rule 50

1. In addition to the General Committee, Credentials Committee, the main committees, and the Drafting Committee, the Conference may establish such committees and working groups as it deems necessary for the performance of its functions.

2. Each committee may set up sub-committees and working groups.

Rule 51

1. The members of the committees and working groups of the Conference that the Conference may decide to establish according to rule 50(1) shall, unless the Conference decides otherwise, be appointed by the President.

2. Members of sub-committees and working groups of committees shall, unless the committee in question decides otherwise, be appointed by the Chairman of the committee.

Officers, conduct of business and voting

Rule 52

The rules contained in chapters II, VI (except rule 19) and VII above shall be applicable, mutatis mutandis, to the proceedings of committees, sub-committees and working groups, except that:

(a) The chairmen of committees (other than the main committees), sub-committees and working groups may exercise the right to vote, and

(b) Decisions of committees, sub-committees and working groups shall be taken by a majority of the participating States present and voting, except as provided by rule 33.

IX. LANGUAGES AND RECORDS

Languages of the Conference

Rule 53

Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the Conference.

Interpretation

Rule 54

1. Speeches made in a language of the Conference shall be interpreted into the other such languages.

2. A representative may speak in a language other than a language of the Conference if the delegation concerned provides for interpretation into one such language.

Records and sound recordings of meetings

Rule 55

1. Summary records of the plenary meetings of the Conference and of the meetings of the main committees shall be kept in the languages of the Conference. As a general rule, they shall be circulated as soon as possible, in all the languages of the Conference, to all representatives, who shall inform the secretariat within five working days after the circulation of the summary record of any corrections they wish to have made.

2. The secretariat shall make sound recordings of meetings of the Conference, the main committees and the Drafting Committee. Such recordings shall be made of meetings of other committees, sub-committees or working groups when the body concerned so decides.

Languages of official documents

Rule 56

Official documents shall be made available in the languages of the Conference.

X. PUBLIC AND PRIVATE MEETINGS

Plenary meetings and meetings of the main committees

Rule 57

The plenary meetings of the Conference and meetings of the main committees shall be held in public unless the body concerned decides otherwise. All decisions taken by the plenary of the Conference at a private meeting shall be announced at an early public meeting of the plenary.

Other meetings

Rule 58

As a general rule meetings of the General Committee, the Drafting Committee, sub-committees or working groups shall be held in private.

XI. OTHER PARTICIPANTS AND OBSERVERS

Representatives of organizations that have received a standing invitation from the General Assembly to participate in the sessions and the work of all international conferences convened under the auspices of the General Assembly in the capacity of observers

Rule 59

Representatives of organizations that have received a standing invitation from the General Assembly to participate in the sessions and the work of all international conferences convened under the auspices of the General Assembly may participate, in accordance with General Assembly resolution 3237 (XXIX) of 22 November 1974, as observers in the deliberations of the Conference, the main committees and, as appropriate, other committees, sub-committees or working groups.

Representatives of national liberation movements

Rule 60

Representatives of national liberation movements recognized in its region by the Organization of African Unity may participate, in accordance with General Assembly resolution 3280 (XXIX) of 10 December 1974 in the deliberations of the Conference, the main committees and, as appropriate, other committees, sub-committees or working groups on any matter of particular concern to those movements.

Representatives of the specialized agencies 1/

Rule 61

Representatives designated by the specialized agencies may participate, without the right to vote, in the deliberations of the Conference, the main committees and, as appropriate, other committees, sub-committees or working groups on questions within the scope of their activities.

Representatives of other intergovernmental organizations

Rule 62

Representatives designated by other intergovernmental organizations invited to the Conference may participate as observers, without the right to

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1/ For the purpose of these rules, the term "specialized agencies" includes the International Atomic Energy Agency and the General Agreement on Tariffs and Trade.

vote, in the deliberations of the Conference, the main committees and, as appropriate, other committees, sub-committees or working groups on questions within the scope of their activities.

Representatives of interested United Nations organs

Rule 63

Representatives designated by interested organs of the United Nations may participate as observers, without the right to vote, in the deliberations of the Conference, its main committees and, as appropriate, other committees, sub-committees or working groups on questions within the scope of their activities.

Written statements

Rule 64

Written statements submitted by the designated representatives referred to in rules 59 to 63 shall be distributed by the Secretariat to all delegations in the quantities and in the language in which the statements are made available to it at the site of the Conference.

XII. SUSPENSION AND AMENDMENT OF THE RULES OF PROCEDURE

Method of suspension

Rule 65

Any of these rules may be suspended by the Conference provided that twenty-four hours' notice of the proposal for the suspension has been given, which may be waived if no representative objects. Any such suspension shall be limited to a specific and stated purpose and to a period required to achieve that purpose.

Method of amendment

Rule 66

These rules of procedure may be amended by a decision of the Conference taken by a two-thirds majority of the representatives present and voting, after the General Committee has reported on the proposed amendment.